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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/227,529 01/08/99 KUMAGAI

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EXAMINER

TAYLOR, L

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

09/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/227,529

Applicant(s)

KUMAGAI ET AL.

Examiner

Larry D Taylor

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-52 and 56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-50, 52, and 56 is/are rejected.
- 7) ☒ Claim(s) 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Receipt of Amendment

1. Receipt is acknowledged of the amendment filed 11 May 2001, in which claims 45 and 50 were amended.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 56 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claim 56, the phrase "slit-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "slit-like"), thereby rendering the scope of the claim(s) unascertainable. In other words, the phrasing of the limitations do not exactly disclose whether the element is a "slit" or some entirely different element with the qualities of a "slit". See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 45, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilz et al. (US 5,484,992, of record) in view of Rockstein et al. (US 5,260,553).

Wilz teaches a stand for an optical reader, the stand comprising: a holder section 12 so that the grip of a reader 2 may be dismounted freely; base support 98 and base plate 70 for supporting the holder section; said holder section having a slit through which a cable attached to the reader can pass, the slit 77 on the same side of the read window (see figures 10, 16, 17, and 18).

Re claim 50, the holder functions as a stand member on which the reader is mounted in such a manner that the grip in a lateral direction (figures 16 and 17).

Re claim 52, the design of the reader and holder section requires the reader grip, when mounted, to be at an angle when the reader scanning rays are projected in a horizontal direction (see figures 2 and 11).

Wilz fails to specify the holder section in which only one end of the grip is insertably mounted.

It is notoriously well known in the art for removable readers to be insertable into stands, in which the grip is the only end mounted. Such configurations are common at point of sale terminals at various retail and grocery stores. Rockstein shows a very similar reader as Wilz, the reader 1 able to have the grip end 14B inserted into holder 71 of stand 70 (fig. 10 and col. 15, lines 18-26). It would be obvious to one of ordinary skill in the art to provide this feature, as it would basically provide a different configuration of scanning, while allowing more or larger (if not the same amount of) objects to be transported and scanned within its designated reading region and frees the user's hands to handle scanned objects.

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7. Claims 46, 47, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilz et al. and Rockstein et al., in view of McMillan (US 4,766,297, of record). The teachings of Wilz as modified by Rockstein have been discussed above.

Wilz as modified by Rockstein fails to specify a concave dent formed within the base coincident with the end of the grip of the reader and the holder section having a mark readable member to be actuated with instructions so as to report a state of the reader.

Taught is the structure of the base plate and holder section as having indentations for coinciding with the grip of the reader (see figure 10). However, to form the indentations in a concave shape would serve as a mere engineering design choice, functioning the same as any other indentation shape, and therefore would have been obvious to one of ordinary skill in the art.

McMillan teaches a stand for an optical reader in which an actuating member 64 (figure 1) is read by the reader when the reader is placed in the stand. It would have been obvious to one of ordinary skill in the art to provide an actuating mark or member as it affords user convenience in allowing the scanner to operate automatically once the reader is placed properly in the stand. Such a modification is well known in the art and therefore would be an obvious expedient.

8. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilz et al. as modified by Rockstein and McMillan, and further in view of Sanders et al. (US 5,612,530, of record). The teachings of Wilz as modified by Rockstein and McMillan have been discussed above.

Wilz as modified by Rockstein and McMillan fails to specify the holder section as having a jut shaped member for actuating instruction means.

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Sanders teaches a stand for an optical reader, wherein a jut-shaped member 154 (see figure 5) is actuated when the reader is mounted, said member pushing instruction means.

It would have been obvious to one of ordinary skill in the art to provide jut-shaped actuating members as it affords user convenience in allowing the scanner to operate automatically once the reader is placed properly in the stand. Such a modification is well known in the art and therefore would be an obvious expedient.

Allowable Subject Matter

9. Claim 56 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

10. Claim 51 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: Prior art of record fails to teach or suggest the stand comprising the holder section with supporting base and a stand member having a tongue which is inserted into the holder section so that the tongue can removably mount the reader's grip in a lateral direction. Also not taught is an optical unit with an optical part having first and second stems formed coaxially on opposite edges thereof, a third stem formed in parallel with the second stem, and a frame, as claimed in the limitations, on which the optical part is mounted.

Response to Arguments

12. Applicant's arguments with respect to claims 45 have been considered but are moot in view of the new ground(s) of rejection.

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13. Applicant's arguments regarding claim 50 have been fully considered but they are not persuasive.

The Examiner contends that the reader can extend in a lateral direction, as per figure 18 of art of Wilz. The ball-and-socket joint of the stand allows the reader to be positioned in multiple directions for scanning, including rotation into an "x" and "y" lateral orientations (see figure 18C). Thus, the Examiner holds the current rejection of claim 50.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D Taylor whose telephone number is (703) 306-5867. The examiner can normally be reached on M-F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Larry D Taylor
September 9, 2001



MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800